

# Town of Sheffield

*Planning Board*

*P.O. Box 325*

*Sheffield, MA 01257*

*Fax (413) 229-7010*

*TTY 800-439-2370*

## **Public Hearing Minutes**

### **Regarding the Special Permit Application of Frank, Rhonda and Adrian Cushwa for an Event Planning Business.**

**Wednesday, July 10, 2013, 7:30 PM**

#### **TOWN HALL – 2nd FLOOR MEETING ROOM**

Board Members Present: David A. Smith Sr.  
James T. Collingwood Jr.  
Maria Nation  
Margaret Martin  
Peter Cherneff

#### **Members of the Public Present:**

Priscilla Cote, 29 Plymouth Lane, representing Board of Health  
Bill Stuhlbarg, 96 Sycamore Terrace, Berkshire Lake Association  
Joel Weis, 1592 Salisbury Road, representing self  
Joe Ruggiero, 383 Rote Hill Rd. representing self and Sheffield Land Trust  
Michael Advocate, 254 S. Undermountain Road, representing self & wife  
Frank Cushwa 247 S. Undermountain Road,  
Rhonda Cushwa 247 S. Undermountain Road  
Adrian Cushwa 247 S. Undermountain Road, representing self  
Megan Seward 247 S. Undermountain Road, representing self  
B. J. Dahl 276 S. Undermountain Road, representing self

Chairman David Smith Sr., explained that the purpose of this hearing is to obtain public input on the Special Permit Application of Frank, Rhonda and Adrian Cushwa. This hearing is continued from June 12, 2013.

Maria Nation, Secretary of the Planning Board, read the published notice of the Public Hearing, published in the *Berkshire Record* on May 24<sup>th</sup> and May 30<sup>st</sup>, 2013.

Chairman David Smith Sr., explained the procedure to be followed during the hearing.

Adrian Cushwa summarized the purpose of his Special Permit Application for a special events business.

David Smith Sr. read a regulation of the Berkshire Lake Association, submitted by Bill Stulbarg.

Adrian and Rhonda Cushwa explained that their property is excluded from this restriction and that it has been a business for the last 60 years. The business they are proposing will fall into the green area on the map. Adrian also presented pictures and explained that his family has cleaned up the property since they have owned it.

David Smith Sr. read a letter from Board of Health, please see attached. The letter generally states that the Board of Health needs more information about the nature of the food that will be served. They asked: "Is the food to be served at the events being prepared by a caterer? If so is that caterer licensed by the Sheffield Board of Health? If a licensed caterer is not preparing the food, who is and where are they preparing it? Is the food being transported to the site? From where and what distance?" The letter details all the aspects of food preparation and transport that must be reviewed. The letter also suggests that there could be issues with water use depending on how many people are served. There are also regulations regarding chemical toilets. The Board of Health does not currently have enough information from the applicants to make determinations on these issues.

Adrian Cushwa responded that his intention was not to use any of the septic systems on the property for the business. He offered pictures of the "stylish" privys used for his sister's wedding. He said that those porta-potties have their own water and hand washing stations and that the same is true for the caterer. He stated that they bring their own hand washing stations and take all the dirty dishes off the premises.

Peter Cherneff asked Priscilla Cote if these are operational issues that she is raising, that might be resolved after a permit is issued by the Planning Board. Ms. Cote explained that he is correct, the Board of Health would have to make sure these issues are addressed even if the Planning Board approved this application. P. Cherneff asked if there is some absolute impediment, obvious at this time, that would make it impossible for the Board of Health to approve this activity? Ms. Cote said not that she is aware of.

David Smith Sr. explained that the Chief of Police would like to make a site visit with at least 2 members of the Planning Board.

Mr. Advocate spoke in opposition to the application. He thought that all Board of Health concerns should be satisfied before the Planning Board grants the Special Permit. He still has not heard from the Applicants under what specific sub section of the bylaws they are applying. He said that if they are applying under the country club application, they need to say how they are a country club. Mr. Advocate is concerned that the red area on the map will be used as commercial parking and that this is against the Berkshire Lake Association. Mr. Advocate pointed out that the Cushwas have a special permit for their business, they are not a by right business. Mr. Advocate stated that his is a by-right business. He reminded the Board that the Cushwa's have had late parties with a lot of noise and that they have not responded to police requests to stop the noise. Mr. Advocate stated that Ramblewood, a business down the road, does weddings on a big scale. He said that Ramblewood has had problems with noise late at night in the past and that their current restriction is 10pm. Mr. Advocate thought that the Planning Board does not have the

authority to violate the restricted covenant of the Berkshire Lake Association members by granting a Special Permit outside its scope.

David Smith Sr. noted that a country club is not applicable to what the Cushwas want to do. He noted that the bylaws allow commercial uses in a rural district as long as it conforms to certain criteria, is located on an individual lot not less than 5 acres and that the Cushwas activity does not seem to conform to these criteria.

Adrian Cushwa stated that he would not be operating more than 60 days, so he would fall outside the scope of state regulations.

Joe Ruggiero, who attended the meeting as a representative of the Sheffield Land Trust, confirmed Adrian Cushwa's assertion. Mr. Ruggiero said that his business is water and environmental regulations and that the state regulations do not cover a business operating less than 60 days at a time.

P. Cherneff moved to continue this public hearing to the night of July 24<sup>th</sup> 2013 at 7:30PM. His motion was seconded by J. Collingwood. The motion was approved unanimously by M. Martin, D. Smith Sr., M. Nation, P. Cherneff and J. Collingwood.

At 8:30 PM The Public Hearing was continued to July 24.

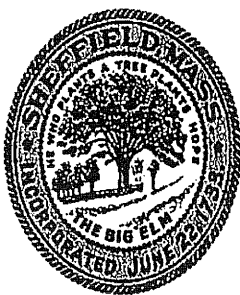
Respectfully submitted,



Nadia Milleron  
Secretary to the Planning Board

Planning Board  
Public Hearing  
July 18, 2013

<u>Name</u>	<u>Address</u>	<u>Representing</u>
Adrian Cusack	247 S. Undermountain Rd.	Self
Megan Seward	247 S. Undermountain Rd.	self
Frank + Rhonda Cusack	" "	" "
BJ Dahl	270 S. Undermountain	self
Joe Ruggiero	383 Bate Hill Rd	self/set
Isabella S. Cate	29 Plymouth Lane	BOH
Joe Was	1592 Palisade	Ret
Michael Advocate	254 S. Undermountain Rd	Self & wife



***Town of Sheffield  
Board of Health  
21 Depot Square; PO Box 325  
Sheffield, MA 01257***

***Voice: 413-229-7000 x 157***

***Fax: 413-229-7010***

***TTY: 800-439-2370***

PB attachment  
July 10  
2013

July 5, 2013

David Smith, Sr.  
Chairman  
Town of Sheffield Planning Board  
Sheffield, MA 01257

Dear Chairman Smith and members of the Planning Board:

At your June 12, 2013 public hearing on the Cushwa special permit application for an outdoor event business, I indicated the Board of Health had concerns and questions over several matters important to the application which are under the jurisdiction of the local Board of Health, the Massachusetts Department of Health or Department of Environmental Protection. These concerns focused on septic, water and food matters associated with the proposed use.

At the hearing, I volunteered to provide the Planning Board an outline of these concerns, as well as Massachusetts regulations and personnel governing these three areas as we initially understood them from the applicant's presentation at your hearing.

On the issue of food, many of the regulations, as cited in the 2011 edition of The Merged Food Code and 105 CMR 590.00, are dependent on the nature of the food the Cushwas' plan to have offered at their events, as well as the way this food is prepared, delivered to the site and/or served at an event.

As such, the remarks in this letter are general in nature. The Board of Health would welcome the opportunity to understand more about the specifics of the food service plans for the events cited by the applicants. With this information the Board of Health and its Health Inspector can further provide guidance on applicable regulations.

There are however several general questions of importance:

1. Is the food to be served at the event being prepared by a caterer? If yes, is this caterer licensed by the Sheffield Board of Health? For licensure by the Sheffield Board of Health, the caterer must have an on-site inspection of the food preparation facilities, which is conducted in accordance with the applicable sections of 105 CMR 590.00. If a licensed caterer is not preparing the food, who is and where is the food being prepared?

2. How is the food being transported to the site? What food items are to be served? What is the distance the food is traveling to the site?
3. How will the food be treated on site? Will it be served directly from a licensed mobile food operation or will it be transported to another portion of the property, where it will be held until it is time to be served? Are there any post delivery preparations of this food, or any other food, done on site prior to it being served?

For example, if the food will not be served directly from a licensed mobile food operation, but will be stored and/or have additional preparations done on site, a portion of the property or facility will need to meet code specifics, including but not limited to: proper facilities to keep the hot food hot and the cold food cold; be inspected and licensed by the Town of Sheffield; have a sink with required running water and soap for staff and servers hand washing; have access to permanent bathroom facilities for those preparing, plating, handling, or serving food with proper hand washing facilities; as well as a facility to wash utensils dropped on the ground, unless a sufficient supply of utensils to cover these contingencies is provided.

As illustrated above, the Board of Health needs to know specifics about the food service plans for the various events planned at the site before providing any more than this general information.

On the issue of water, we have been advised by Kurt Boisjolie, DEP's WERO CSO Project Manager that "there could be issues with the facility becoming a Public Water System by serving more than 25 people more than 60 days per year". Douglas Paine, of MA DEP, has provided additional information, which is attached. It may be best to contact him directly on this matter.

On the issue of septic, 105 CMR 410.152 states:

105 CMR 410.152: Privies and Chemical Toilets Prohibited; Exceptions

No privy or chemical toilet shall be constructed or continued in use; provided, that the board of health may approve in writing the construction or continued use of any privy or chemical toilet which it determines will not (a) endanger the health of any person; or (b) cause objectionable odors or other undue annoyance. When so approved, a privy or chemical toilet may, subject to written authorization of the board of health in accordance with 310 CMR 15.00, qualify as a toilet within the requirements of 105 CMR 410.150(A) (see 105 CMR 410.840). In no event may a privy be located within 30 feet of any building used for sleeping or eating, or of any lot line or street.

You will also note in Mr. Boisjolie's attached email, that he raises several other points related to septic matters. Again, as with the both food and water, additional information is needed from the applicants.

I do believe Mr. Collingwood shared a valid concern during the hearing when he raised the issue of someone potentially not wanting to use a porta-potty, such as a bride or a member of her wedding party.

I trust this information will be of use to the Planning Board and the applicants, though it is not as complete as it could be, as the Board of Health does not know enough of the applicants' specific plans in each of these areas. However, I believe this information, as well as the contacts listed at the bottom of this letter, will be of assistance to both the Planning Board and the applicants.

Please call me at 413-464-2132 or 413-229-7000 ext. 157 if I may provide any further information.

Sincerely,

A handwritten signature in cursive script, reading "Priscilla B. Cote".

Priscilla B. Cote  
Chairman

Attachments: 4 for Applicant; 2 for Planning Board.

cc: Frank, Rhonda and Adrian Cushwa; 247 South Undermountain Road, Sheffield, MA 01257

Rhonda LaBombard, Town Administrator

Kurt Boisjolie; DEP WERO CSO Project Manager; by email, [Kurt.Boisjolie@state.ma.us](mailto:Kurt.Boisjolie@state.ma.us)

Douglas Paine, DEP; Drinking Water Program; by email; [Douglas.Paine@state.ma.us](mailto:Douglas.Paine@state.ma.us)

Charles J. Kaniecki; District Health Officer, Western Region 1; MA Department of Public Health; by email; [Charlie.Kaniecki@state.ma.us](mailto:Charlie.Kaniecki@state.ma.us)

This information has been provided to the Sheffield Board of Health by Douglas Paine; MA DEP, [Douglas.paine@state.ma.us](mailto:Douglas.paine@state.ma.us)

The following definition of a **Public Water System** is taken from the State's Drinking Water Regulations (310 CMR 22.00). The full text of the regulation can be found on the MassDEP website, <http://www.mass.gov/cea>

**Public Water System** means a system for the provision to the public of water for human consumption, through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such a system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.

The Department may presume that a system is a public water system as defined herein based on the average number of persons using a facility served by the system or on the number of bedrooms in a residential home or facility. The Department reserves the right to evaluate and determine whether two or more wells located on commonly owned property, that individually may serve less than 25 people, but collectively serve more than 25 people for more than 60 days of the year should not be regulated as a public water system, taking into account the risk to public health. A public water system includes a "community water system" or a "non-community water system".

**(a) Community Water System** means a public water system, which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

**(b) Non-community Water System** means a public water system that is not a community water system.

**1. Non-transient Non-community Water System or "NTNC"** means a public water system that is not a community water system and that has at least 15 service connections or regularly serves at least 25 of the same persons or more approximately four or more hours per day, four or more days per week, more than six months or 180 days per year, such as a workplace providing water to its employees.

**2. Transient Non-community Water System or TNC** means a public water system that is not a community water system or a non-transient non-community water system but is a public water system which has at least 15 service connections or serves water to 25 different persons at least 60 days of the year. Some examples of these types of system are: restaurants, motels, camp grounds, parks, golf courses, ski areas and community centers.





Message

Mon, Jun 24, 2013 4:21 PM

From: "Boisjolie, Kurt (DEP)" <kurt.boisjolie@state.ma.us>  
To: Sheffield BOH  
Cc: "Nietupski, Paul (DEP)" <paul.nietupski@state.ma....>  
"Paine, Douglas (DEP)" <douglas.paine@state.ma.us>  
"Cabral, Deirdre (DEP)" <deirdre.cabral@state.ma.us>

Subject: Special event Permit

Attachments: Attach0.html / Uploaded File

17K

June 24, '13

Pricilla Cote, Sheffield BOH

Regarding existing 2 BR house & office facility in Sheffield on RT 41 requesting a Special permit from Sheffield Planning Bd for Special Events (wedding receptions, etc,) for 100 to 200 people May -October or so.

Planning Board asking BOH to weigh in.

- 1) Applicant should submit information for existing septic system , such as copy of its Disposal System Permit, design flow, and location of system components
- 2) Applicant should Submit the design flow for the proposed Special permit based on Title 5 (310 CMR 15.000) design flows.. If Applicant can not do this, hire a RS or PE who do T% designs to estimate the proposed design flow.
- 3) Porta-Potties (Privies and Chemical Toilets) can only be used if approved by the BOH... see e-mail below from MA Dept Public Health... BOH can require Septic System Upgrade due to change of use and/or increase in Title 5 design flow.
- 4) There could also be issues with the facility becoming a Public Water System by serving more than 25 people more than 60 days per year. I have asked our Drinking water program to further discuss with you.

Kurt Boisjolie  
WERO CSO Project Manager  
413-755-2284